

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:16-CR-127-MR-WCM

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.)
)
BRANDY MICHELE WILKINS,)
a/k/a BRANDY MICHELE SEARCY,)
Defendant,)
)
and)
)
WRIGHT ENTERPRISES OF)
HENDERSON CO., INC.,)
Garnishee.)

)

ORDER OF CONTINUING GARNISHMENT

This matter is before the Court on the Answer (Doc. 32) filed by Wright Enterprises of Henderson County, Inc. (the “Garnishee”), and the Government’s Motion for Order of Continuing Garnishment (the “Motion,” Doc. 33).

I. Relevant Background

On September 28, 2017, Defendant was sentenced to a term of probation for 5 years. Doc. 22. Defendant was also ordered to pay an assessment of \$100.00 and restitution in the amount of \$12,851.97. Id. at 3.

On June 25, 2024, the Court issued a Writ of Continuing Garnishment (the “Writ”) to the Garnishee. Doc. 29. The following day, the Clerk issued a “Notice of Garnishment and Instructions to Defendant” (the “Notice,” Doc. 30).

The Government’s documents indicate that:

- The Garnishee received a copy of the Writ and Notice on June 26, 2024. Doc. 33 at ¶¶ 4, 6.
- The Garnishee filed its Answer on July 5, 2024. Doc. 32. The Garnishee’s Certificate of Service indicates that the Garnishee served its Answer on Defendant by mailing a copy of the Answer to Defendant by first-class mail on July 2, 2024. Id. at ¶ 7, Doc. 32 at 4.
- Defendant received a copy of the Writ and Notice on July 15, 2024.¹
- The Government reports that the balance due from Defendant as of June 24, 2024 is \$10,784.93. Doc. 33 at ¶ 1.

By the Motion, the Government now seeks an Order of Continuing Garnishment.

¹ The Government sent various materials, including the Writ and Notice, to Defendant by first-class certified mail on June 26, 2024, but the Government did not receive confirmation that those materials were delivered, and therefore resent the materials on July 12, 2024. Docs. 31, 33 at 2 n.1; 33 at ¶ 5, Doc. 33-1 at 3.

II. Discussion

Defendant has not requested a hearing or moved to quash the Writ pursuant to 28 U.S.C. § 3202(d) and the time for doing so has expired.

Similarly, neither Defendant nor the United States has filed a written objection to the Garnishee's Answer or requested a hearing pursuant to 28 U.S.C. § 3205(c)(5) and the time for doing so has expired.²

In addition, Defendant has not responded to the Motion and the undersigned is otherwise persuaded that the Motion should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Government's Motion for Order of Continuing Garnishment (Doc. 33) is **GRANTED** and an Order of Continuing Garnishment is **ENTERED** in the amount of \$10,784.93 as computed through June 24, 2024.
2. The Garnishee is **DIRECTED** to pay the United States the maximum allowable garnishment from Defendant's aggregate disposable earnings for any workweek, pursuant to 15 U.S.C. § 1673, that being the lesser of (1) 25 percent of Defendant's disposable weekly earnings, or (2) the amount by which

² The undersigned will presume Defendant received the Answer three days after the Garnishee mailed it, such that Defendant's deadline to file a written objection to the Answer and request a hearing expired—at the latest—in early August 2024. See United States v. Bott, No. 1:21-cr-16, 2022 WL 9497239 (W.D.N.C. Oct. 14, 2022).

Defendant's disposable weekly earnings exceed 30 times the federal minimum wage.

3. The payments shall continue until the debt to the United States is paid in full, until the Garnishee no longer has custody, possession, or control of any property belonging to Defendant, or until further order of this Court, whichever first occurs.
4. Payments should be made payable to the United States Clerk of Court and mailed to:

Clerk of the United States District Court
401 West Trade Street
Charlotte, North Carolina 28202

In order to ensure that each payment is credited properly, the following should be included with each payment:

The name of Defendant Brandy Michele Wilkins a/k/a Brandy Michele Searcy and Court Number DNCW1:16CR000127-001.

5. The Garnishee is directed to advise the Government if Defendant's employment is terminated at any time by the Garnishee or Defendant.

Signed: September 24, 2024



W. Carleton Metcalf
United States Magistrate Judge

